

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

Case No: 8:17-bk-10721 CPM
Chapter 7

MAKI, ROLAND K,

Debtor(s).

**MOTION TO SELL REAL PROPERTY
SUBJECT TO ALL ENCUMBRANCES, LIENS
AND INTERESTS AND SOLICITATION OF GREATER OFFERS
AND FOR AUTHORITY TO IMMEDIATELY PAY THE APPLICABLE TAXES
(5318 Poinsettia Dr., New Port Richey, FL 34652 and
7226 Jenner Ave., New Port Richey, FL 34655)**

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to local rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party-in-interest files a response within 21 days from the date set forth on the proof of service, plus an additional three days for service if any party was served by U.S. mail.

If you object to the relief requested in this paper, you must file your response with the Clerk of the Court at Sam M. Gibbons Courthouse, 801 N. Florida Ave., #555, Tampa, FL 33602-3899, and serve a copy on the Trustee, Christine L. Herendeen, at P.O. Box 152348, Tampa, FL 33684, and any other appropriate person(s) within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW Christine L. Herendeen, Chapter 7 Trustee, by and through her undersigned counsel, and hereby moves for authority to sell certain improved real property subject to all liens, encumbrances and interests, and for authority to immediately pay the applicable taxes, and in support thereof states as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b) (2) (A), (M), (N) and (O).

1. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The basis for the relief requested herein are, *inter alia*, 11 U.S.C. §§ 105, 363(b) and Federal Rules of Bankruptcy Procedure 2002 and 6004.

PROPOSED SALE TERMS

3. Christine L. Herendeen, the Trustee duly appointed and acting for the above-captioned estate reports that the Trustee intends to sell the following property of the estate of the Debtor(s) under the following terms and conditions, twenty-one (21) days from the date set forth on the proof of service attached to this motion plus an additional three (3) days:

a. Description of Property: All of Bankruptcy Estate's right, title and interest in the parcel(s) of non-exempt real property, together with any and all improvements located thereon, including any and all non-exempt appliances, window treatments and fixtures as well as any and all tenements and appurtenances thereto belonging or in anywise appertaining (collectively, the "Property") more particularly described as follows:

Address No. 1: 5318 Poinsettia Dr., New Port Richey, FL 34652

Legal: Lot 30, of Floral Park Partial Replat Phase I, according to the plat thereof recorded in Plat Book 10, Page 29 et seq., of the Public Records of Pasco County, Florida.

Address No. 2: 7226 Jenner Ave., New Port Richey, FL 34655

Legal: Lot 763, Seven Springs Homes Unit Four, According to the map or plat thereof, as recorded in Plan Book 14, Pages 104 and 105, of the Public Records of Pasco County, Florida.

b. Manner of Sale: Private

c. Terms of Sale: Wire or Certified Funds Only

- d. Purchaser: **Address No. 1:** Black Point Assets, Inc., as Trustee of the 5318 Poinsettia Dr. Land Trust; and, **Address No. 2:** Black Point Assets, Inc., as Trustee of the 7226 Jenner Ave. Land Trust

The proposed Buyer is a bona fide “good faith” purchaser within the meaning of 11. U.S.C. § 363(m) with no relation to the Debtor or the Trustee.

- e. Purchaser’s Address: 424 E. Central Blvd., Orlando, FL 32801

f. Sale Price: \$3,500.00 each property address, subject to the auction procedures described in Paragraph 5 below.

Based upon the liens and encumbrances listed herein and obtained from the Debtor(s) schedules, the Trustee believes the offer is fair and reasonable and that the sale is in the best interest of creditors and the estate.

g. Applicable Taxes and Government Charges: The Trustee’s Deed prepared in connection with the sale will set forth as consideration the purchase price, together with the total amount of liens and encumbrances listed in paragraph h. below. Therefore, the Purchaser will be required to pay, and agrees to pay, the Florida documentary stamp tax calculated pursuant to Fla. Stat. § 201.02 on the total consideration reflected in the Trustee’s Deed. In the event there are no higher bidders, the documentary stamp taxes to be paid on the proposed sale of **Address No. 1:** 5318 Poinsettia Dr., New Port Richey, FL 34652 will be **\$796.60** (\$72,704.00 1st mortgage + \$37,537.00 2nd mortgage + \$3,500.00 sales price = total consideration of \$113,741.00, rounded up to the next one hundred dollars = \$113,800.00), and on the proposed sale of **Address No. 2:** 7226 Jenner Ave., New Port Richey, FL 34655 will be **\$614.60** (\$66,937.00 1st mortgage + \$17,307.00 2nd mortgage + \$3,500.00 sales price = total consideration of \$87,744.00, rounded up to the next one hundred dollars = \$87,800.00); payment @ .70 per \$1,000.00); however, this amount is subject to increase in the event of a higher bid and a higher purchase price.

Upon expiration of the negative notice period outlined herein, the Trustee shall collect from the Purchaser an amount equal to the Sale Price, together with the Applicable Taxes and Government Charges, calculated as set forth above. Upon receipt of funds, the Trustee shall immediately:

- 1) Execute a Trustee’s Deed and properly record an original copy of the executed Deed with the Clerk of the Court for the County where the Property is located.
- 2) Incident to recording the Trustee’s Deed, the Trustee shall pay all applicable taxes (i.e., documentary stamp taxes) in full.
- 3) Upon return receipt of the Trustee’s Deed from the Clerk of Court, the original shall be delivered by the Trustee, or her Attorney, to the Purchaser via U.S. Mail and a copy of the same shall be filed with the Clerk of the Court for the Middle District of Florida, Bankruptcy Court.

h. Ownership Interest to be Transferred: All right, title and interest of bankruptcy estate, if any.

i. Subject to all liens and encumbrances, if any. No warranties of no liens. No warranties of any kind. Liens included on the Debtor's Schedule D include:

Address No. 1: 5318 Poinsettia Dr., New Port Richey, FL 34652

<u>Lienholder</u>	<u>Amount</u>	<u>Nature of Secured Interest</u>
Bank of America NC4-102-03-14 P.O. Box 26012 Greensboro, NC 27410	\$72,704.00 *	Mortgage*
Wells Fargo Home Mortgage 8480 Stagecoach Cir. Frederick, MD 21701	\$37,537.00	Mortgage*

Address No. 2: 7226 Jenner Ave., New Port Richey, FL 34655

<u>Lienholder</u>	<u>Amount</u>	<u>Nature of Secured Interest</u>
Bank of America NC4-105-03-14 P.O. Box 26012 Greensboro, NC 27410	\$66,937.00 *	Mortgage*
Bank of America NC4-102-03-14 P.O. Box 26012 Greensboro, NC 27410	\$17,307.00 *	Mortgage*

*As per the Debtor(s) bankruptcy schedules

SOLICITATION OF GREATER OFFERS

4. The Trustee will entertain any higher bids for the purchase of the Property that the Trustee proposes to sell. Such bids must be in writing and must be accompanied by a deposit for 100% of the proposed higher purchase price. Such bids must be received by the Trustee electronically at clherendeen@herendeenlaw.com, and by US Mail at the address listed below, no later than the close of business twenty-one (21) days from the date of mailing of this Motion, as indicated in the Certificate of Service. Should a higher bid be received, the Trustee will conduct a telephonic auction between the original purchaser named in this notice and the additional bidder(s) at the earliest reasonable time after the said twenty one (21) days to determine the ultimate purchaser. The trustee reserves the right, without a penalty, to withdraw this offer of

sale at any time. This sale will not become final until after the expiration of the twenty one (21) day objection period and/or a favorable disposition of any objections to the sale.

5. The Trustee requests authorization for the secured lienholders and the ultimate Purchaser to communicate regarding the future disposition of the Property, including but not limited to, communications in connection with any unsatisfied liens or encumbrances of record.

6. Finally, the Trustee requests that any Order approving the sale include a provision that shortens the fourteen day stay period required pursuant to Rule 6004(h) to allow the closing to occur immediately upon entry of the order granting the instant motion.

WHEREFORE, the Trustee requests this Court to enter an order on the following terms:

A. Authorizing the sale of the Property to the ultimate purchaser subject to all liens, encumbrances, or interests of any party and authorizing payment of applicable taxes;

B. Authorizing the Trustee to take any all actions and to execute any and all documents necessary and appropriate to effectuate and consummate the terms of said sale, including, executing a deed conveying the interests of the Debtor(s) in the Property to the Purchaser;

C. Authorizing the Trustee to immediately pay the Applicable Taxes,

D. Waiving the Rule 6004(h) stay period, and

E. Granting the Trustee such other and further relief as is just and proper.

Herendeen Law, LLC
Attorney for Trustee
P.O. Box 152348
Tampa, FL 33684
(813) 438-3833
clherendeen@herendeenlaw.com

By: /s/ Christine L. Herendeen
Christine L. Herendeen
Florida Bar No. 0094315

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE: ROLAND K MAKI

CASE NO: 8:17-bk-10721-CPM

**DECLARATION OF MAILING
CERTIFICATE OF SERVICE**

Chapter: 7

ECF Docket Reference No.

Judge:

Hearing Location:

Hearing Date:

Hearing Time:

Response Date:

On 2/13/2018, I did cause a copy of the following documents, described below,

Motion to Sell Real Property Subject to All Encumbrances, Liens and Interests, Solicitation of Greater Offers and for Authority to Immediately Pay the Applicable Taxes

to be served for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

I caused these documents to be served by utilizing the services of BK Attorney Services, LLC d/b/a certificateofservice.com, an Approved Bankruptcy Notice Provider authorized by the United States Courts Administrative Office, pursuant to Fed.R. Bankr.P. 9001(9) and 2002(g)(4). A copy of the declaration of service is attached hereto and incorporated as if fully set forth herein.

Parties who are participants in the Courts Electronic Noticing System ("NEF"), if any, were denoted as having been served electronically with the documents described herein per the ECF/PACER system.

DATED: 2/13/2018

/s/ Christine L. Herendeen

Christine L. Herendeen 0094315

Herendeen Law, LLC

P.O. Box 152348

Tampa, FL 33684

813 438 3833

clherendeen@herendeenlaw.com

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE: ROLAND K MAKI

CASE NO: 8:17-bk-10721-CPM

**CERTIFICATE OF SERVICE
DECLARATION OF MAILING**

Chapter: 7
ECF Docket Reference No.
Judge:
Hearing Location:
Hearing Date:
Hearing Time:
Response Date:

On 2/13/2018, a copy of the following documents, described below,

Motion to Sell Real Property Subject to All Encumbrances, Liens and Interests, Solicitation of Greater Offers and for Authority to Immediately Pay the Applicable Taxes

were deposited for delivery by the United States Postal Service, via First Class United States Mail, postage prepaid, with sufficient postage thereon to the parties listed on the mailing matrix exhibit, a copy of which is attached hereto and incorporated as if fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the mailing list attached hereto in the manner shown and prepared the Declaration of Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: 2/13/2018



Jay S. Jump
BK Attorney Services, LLC
d/b/a certificateofservice.com, for
Herendeen Law, LLC
Christine L. Herendeen
P.O. Box 152348
Tampa, FL 33684

CASE INFO

1 LABEL MATRIX FOR LOCAL NOTICING
113A8
CASE 8-17-BK-10721-CPM
MIDDLE DISTRICT OF FLORIDA
TAMPA
TUE FEB 13 09-32-39 EST 2018

DEBTOR

3 ROLAND K MAKI
1201 KINGSWOOD DR
CLEARWATER FL 33759-2718

4 NATIONSTAR MORTGAGE LLC DBA MR
COOPER
ROBERTSON ANSCHUTZ SCHNEID PL
6409 CONGRESS AVENUE SUITE 100
BOCA RATON FL 33487-2853

5 WELLS FARGO BANK NA
CO ELIZABETH ECKHART
SHAPIRO FISHMAN GACHE LLP
4630 WOODLAND CORPORATE BLVD
SUITE 100
TAMPA FL 33614-2429

6 AMEX
CORRESPONDENCE
PO BOX 981540
EL PASO TX 79998-1540

7 BANK OF AMERICA
NC41020314
PO BOX 26012
GREENSBORO NC 27420-6012

8 BANK OF AMERICA
NC41050314
PO BOX 26012
GREENSBORO NC 27420-6012

9 BARCLAYS BANK DELAWARE
100 S WEST ST
WILMINGTON DE 19801-5015

10 CAP1BSTBY
CAP ONE RETAIL SERVBCY
PO BOX 30258
SALT LAKE CITY UT 84130-0258

11 CAPIO PARTNERS
PO BOX 1378
SHERMAN TX 75091-1378

12 CAPITAL ONE
ATTN GENERAL CORRESPONDENCEBANKRUPTCY
PO BOX 30285
SALT LAKE CITY UT 84130-0285

13 CARDWORKSCW NEXUSMERRICK
ATTN BANKRUPTCY
PO BOX 9201
OLD BETHPAGE NY 11804-9001

14 CITIBANKTHE HOME DEPOT
CITICORP CR SRVSCENTRALIZED BANKRUPTCY
PO BOX 790040
ST LOUIS MO 63179-0040

15 CITICARDS CBNA
CITICORP CREDIT SVCCENTRALIZED
BANKRUPT
PO BOX 790040
SAINT LOUIS MO 63179-0040

16 CREDIT ONE BANK NA
PO BOX 98873
LAS VEGAS NV 89193-8873

17 DISCOVER BANK
DISCOVER PRODUCTS INC
PO BOX 3025
NEW ALBANY OH 43054-3025

18 DISCOVER FINANCIAL SERVICES LLC
PO BOX 3025
NEW ALBANY OH 43054-3025

19 FIRST NATIONAL BANK
ATTN FNN LEGAL DEPT
1620 DODGE ST MAILSTOP CODE 3290
OMAHA NE 68102-1593

20 JACOBS
125 BROADWAY AVE
OAK RIDGE TN 37830-5436

21 LVNV FUNDINGRESURGENT CAPITAL
PO BOX 10497
GREENVILLE SC 29603-0497

22 LARGO MEDICAL
PO BOX 740743
CINCINNATI OH 45274-0743

23 LENDING CLUB CORP
71 STEVENSON ST
SUITE 300
SAN FRANCISCO CA 94105-2985

24 METLIFE
PO BOX 13724
PHILADELPHIA PA 19101-3724

25 NATIONSTAR MORTGAGE LLC
ATTN BANKRUPTCY
8950 CYPRESS WATERS BLVD
COPPELL TX 75019-4620

26 PROSPER MARKETPLACE INC
PO BOX 396081
SAN FRANCISCO CA 94139-6081

27 REGIONS BANKCARD
ATTN BANKRUPTCY
1900 5TH AVE N 300
BIRMINGHAM AL 35203-2610

PARTIES DESIGNATED AS "EXCLUDE" WHERE LISTED IN THE USHJ CASE FILE CLASSIFICATION
 PARTIES WITH A '+' AND DESIGNATED AS "CM/ECF E-SERVICE" RECEIVED ELECTRONIC NOTICE THROUGH THE CM/ECF SYSTEM

28 RESURGENT CAPITAL SERVICES
 PO BOX 10587
 GREENVILLE SC 29603-0587

29 SYNCHRONY BANKCARE CREDIT
 ATTN BANKRUPTCY
 PO BOX 965060
 ORLANDO FL 32896-5060

30 SYNCHRONY BANKGAPPAYPAL
 ATTN BANKRUPTCY
 PO BOX 965060
 ORLANDO FL 32896-5060

31 SYNCHRONY BANKWALMART
 ATTN BANKRUPTCY
 PO BOX 965060
 ORLANDO FL 32896-5060

32 WELLS FARGO BANK NA
 WELLS FARGO HOME MORTGAGE AMERICAS
 SERVICING
 ATTN BANKRUPTCY DEPT MAC X7801-014
 3476 STATEVIEW BLVD
 FORT MILL SC 29715-7203

CM/ECF E-SERVICE

33 GARY H BAKER +
 GARY H BAKER PA
 2470 SUNSET POINT RD
 CLEARWATER FL 33765-1515

CM/ECF E-SERVICE

34 UNITED STATES TRUSTEE TPA713 +
 TIMBERLAKE ANNEX SUITE 1200
 501 E POLK STREET
 TAMPA FL 33602-3949

CM/ECF E-SERVICE

35 STEVEN G POWROZEK +
 SHAPIRO FISHMAN GACHE
 4630 WOODLAND CORPORATE BLVD
 SUITE 100
 TAMPA FL 33614-2429

CM/ECF E-SERVICE

36 BOUAVONE AMPHONE +
 ROBERTSON ANSCHUTZ SCHNEID PL
 6409 CONGRESS AVENUE SUITE 100
 BOCA RATON FL 33487-2853

EXCLUDE

~~37 CHRISTINE L HERENDEEN ATTORNEY FOR
 TRUSTEE
 PO BOX 152348
 TAMPA FL 33684-2348~~

CM/ECF E-SERVICE

38 CHRISTINE L HERENDEEN +
 PO BOX 152348
 TAMPA FL 33684-2348

CM/ECF E-SERVICE

39 KENIA L MOLINA +
 FRENKEL LAMBERT WEISS WEISMAN GORDON
 LLP
 ONE EAST BROWARD BOULEVARD SUITE 1430
 FORT LAUDERDALE FL 33301-1844

CM/ECF E-SERVICE

40 ELIZABETH ECKHART +
 SHAPIRO FISHMAN GACHE
 4630 WOODLAND CORPORATE BLVD
 SUITE 100
 TAMPA FL 33614-2429

CM/ECF E-SERVICE

41 NOTE ENTRIES WITH A + AT THE END
 OF THE
 NAME HAVE AN EMAIL ADDRESS ON FILE IN
 CMECF